

REMARKS

Claims 1, 4-6, 9-13, 16-18, 21, 23-28 and 30-41 are pending. Claims 4, 5, 9-12, 16-18, 23-26 and 30-32 are objected to. Claims 1, 6, 13, 21, 26-28 and 33-41 are indicated as rejected in the Summary portion of the Office Action, but indicated as allowed in the body of the Office Action (p. 3). As there are no rejections explained, Applicants under stand the rejection of these claims indicated in the Summary as an error.

Claims 4, 5, 9-12, 16-18, 23-26 and 30-32 are objected to because claims 4, 9 and 16 are interpreted as not further limiting claim 1. The Examiner takes a position that claim 1 includes the sequence of SEQ ID NO: 1 and additional nucleotides, and the term "comprising" in claims 4, 9 and 16 makes these claims of similar scope. Applicants have rewritten these claims in a manner substantially as suggested by the Examiner, thus overcoming the objection. (The Examiner is reminded that the term "having" when used to define an element is closed language, as opposed to when "having" is a transitional term, in which case it is open language.)


Applicants submit that the present application well-describes and claims patentable subject matter. Withdrawal of the standing objection and allowance of all of the pending claims is respectfully requested.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee of \$930.00 and \$320.00 for filing an Appeal Brief is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By _____
Mark J. Nuell, #36,623

DRN/crt
0760-0281P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims have been amended as follows:

4. (Three Amended) The nucleic acid according to claim 1, [comprising] consisting of a polynucleotide having the sequence of SEQ ID NO: 1.

9. (Three Amended) The recombinant vector according to claim 6, wherein said nucleic acid [comprises] consists of a polynucleotide having the [nucleotide] sequence of SEQ ID NO: 1.

16. (Twice Amended) The method according to claim 13, wherein said nucleic acid [comprises] consists of a polynucleotide having the nucleotide sequence shown in SEQ ID NO: 1.